

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14491, as amended, of James E. McClelland, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against converting an existing garage located on an alley lot into a single-family dwelling (Sub-section 7606.3) in a R-4 District at premises rear 303 - 12th Street, S.E., (Square 991, Lot 814).

HEARING DATE: October 8, 1986
DECISION DATE: November 5, 1986

FINDINGS OF FACT:

1. At the public hearing, the application was amended to eliminate the variances requested to convert the structure into a flat (Sub-section 7606.3) and from the rear yard requirements (Sub-section 3304.1) for a proposed deck addition.

2. The site, known as premises rear 303 - 12th Street, S.E., is an alley lot located in Square 991 which is bounded by to the north by South Carolina Avenue to the south by D Street, to the east by 12th Street and to the west by 11th Street. The site is located in an R-4 District.

3. The alley lot is essentially rectangular in shape and relatively flat. It has a lot area of 1,703.17 square feet. It is improved with a two story, brick carriage house currently used for storage. The lot and structure were created prior to 1900. On May 12, 1958, the effective date of the current Zoning Regulations, the site became nonconforming as to the lot size.

4. The lot is accessed by a 10 foot wide public alley commencing at 12th Street. At the structure's northwest corner, the alley widens to a width of approximately 20 feet. The alley continues at this dimension until it dead ends approximately 20 feet from the structure's southern wall.

5. In addition to numerous garages and parking pads located in the rear yards of surrounding single-family row dwellings, the alley contains a second carriage house. This

structure abuts the subject site's rear property line and is accessible by way of a separate alley commencing further south on 12th Street. This second alley terminates at the point where the subject alley ends but is precluded from joining the subject alley because of a grade differential and a retaining wall. Despite the grade difference between the two alleys, the two carriage houses are located at the same grade.

6. Pursuant to Paragraph 8207.11 of the Zoning Regulations, the applicant is seeking a variance from the prohibition against converting an existing garage located on an alley lot into a single family dwelling (Sub-section 7606.3).

7. The structure and site are now in a very deteriorated condition. They will be renovated to an attractive single family residence which will provide additional security for the alley.

8. The applicant will provide one regulation size parking space in the rear yard and one non-regulation size space (10 feet by 16 feet) in the front yard. The regulations require the provision of only one parking space.

9. The site is relatively large for an alley lot measuring only 100 square feet less than the minimum R-4 lot size of 1800 square feet.

10. By memorandum dated October 1, 1986, the Office of Planning (OP) recommended conditional approval of the subject application. The approval was conditioned on the conversion of the structure to a single family dwelling. The Office of Planning reported there was sufficient practical difficulty to justify the granting of this one area variance. The site is relatively large for an alley lot and was developed prior to the adoption of the current Zoning Regulations. If denied use of the subject structure for single family purposes, OP reported that the applicant would suffer a practical difficulty by the strict application of the Zoning Regulations. The applicant would be denied a reasonable and beneficial use of the site. The Office of Planning stresses the beneficial aspects in as much as the granting of the requested relief would result in the renovation of a deteriorated, non-productive structure into a productive single family dwelling. This use will enhance the ambiance of both the subject alley and the surrounding neighborhood. Further, with its own parking space, the subject single family use will not compete for scarce, curb-side parking.

11. By report dated October 1, 1986, Advisory Neighborhood Commission (ANC) 6B reported that it voted to oppose the application as it was originally advertised. It reported

that it concluded that the best use of the subject property would be as a single family unit. The Board concurs.

12. By letter dated October 6, 1986, the Capitol Hill Restoration Society, Inc. reported its opposition to the application. It stated that "a reasonable use could be made of the property without or with fewer variances being granted, such as a single-family residence or by consolidation of property, a residential use of one of the abutting lots, such as parking or storage." The Board notes that the recommendation of the facility was based on the application as unamended. The Board finds that the application as amended, will address the concerns of the Society.

13. A neighboring property owner testified in opposition to the application on the grounds that the alley is quite narrow, the access to it is restricted and he uses the site for access to the back alley from his property. If the property is developed he may not be able to use the gate at the rear of his site. He testified that the structure's use as garage and storage would be acceptable. The Board finds that the public alley is narrow but passable and no evidence has been offered to demonstrate that the alley will not provide sufficient access to the site without impeding traffic in the alley. The Board further finds that the opposition concerns about easements across private property are not zoning issues and are not within the jurisdiction of the Board.

14. Several neighboring property owners submitted letters to the record opposing the application for the reasons mentioned above.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking an area variance. Single-family dwelling use is permitted on an alley lot. The variance requested relates not to the use but to a physical characteristic of the lot itself i.e., the width of the alley is the only item at issue. Sub-section 7606.3 states in pertinent part that non-residential structures located on alleys less than 30 feet in width shall not be converted, altered, remodeled, restored or repaired for human habitation. The granting of an area variance requires a showing of a practical difficulty upon the owner arising out of some extraordinary or exceptional situation or condition of the property. Further, it must be demonstrated that the relief sought will not be substantially detrimental to the public good nor substantially impair the intent and purpose of the zone plan.


The Board concludes that the applicant has met the burden of proof. The pre-1950 construction of the structure

and creation of the lot constitute a practical difficulty. The existing alley system cannot be widened to thirty feet. The Board further concludes that the application can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. The proposed use of the carriage house as a one-family residence will bring the property into conformance with the existing R-4 zoning and the use of other properties in the square. Adequate parking will be provided at the site and the use will not create undue traffic problems in the alley. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 3-0 (William F. McIntosh, Carrie L. Thornhill, Paula L. Jewell to grant; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: DEC 19 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14491order/LJPO